

REMARKS

Claims 1-14 are pending in the application. New claims 12-14 have been added. Claims 1, 3, 8, and 13 are independent claims.

Changes to Specification and Claims

Minor changes have been made to the specification to place it in better form for U.S. practice.

Further, minor changes have been made to the pending claims, without narrowing the scope thereof, to place them in better form for U.S. practice.

Drawings

Minor changes have been made to the drawings to place them in better form for U.S. practice.

The Examiner is respectfully requested to consider and enter these drawing changes.

Claim Rejections - 35 U.S.C. § 112

Claims 1-11 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

Claim 1 has been amended to claim "a drive source provided on the third member for moving the first member relative to the third member" to overcome this rejection.

Further, claims 9-11 have been amended to overcome this rejection.

The Examiner is respectfully requested to reconsider and withdraw this rejection.

Claim Rejections - 35 U.S.C. § 103

Claims 1-2, 4, 6-7, and 9-11 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilks (USP 5,578,495) in view of Stettler (USP 5,240,679) or Preston et al. (USP 6,274,087). This rejection is respectfully traversed.

Wilks discloses an automated fluid injection device having a lower carriage section 222₁ (corresponds to the "first member" of the claimed invention of the present application) and an upper carriage section 222₂ (corresponds to the "second member" of the claimed invention) for holding a bottle 255 therebetween. Wilks also discloses a plate 211, on which an elevating motor 221 for moving the carriage sections 222₁ and 222₂ up and down is mounted.

Since the plate 211 of Wilks is fixed to a rail, along which the lower and upper carriages travel, the plate 211 is not "capable of linearly reciprocating along the same direction and spaced apart" from the upper and lower carriages. In other words, as acknowledged by the Examiner, Wilks fails to disclose or even suggest the "third member" as recited in claim 1.

Further, since Wilks does not have the "third member," Wilks does not have "an elastically compressible spacer inserted between the second member and the third member," as recited in claim 1.

Moreover, in Wilks, the elevating motor 221 is dedicated to move only the lower carriage section 222₁ and 222₂, and is not intended to perform "a second action of shifting the second member together with the third member toward the first member until the second member makes contact with another portion of the specimen vessel such that the specimen vessel is sandwiched between the first and second members; and a third action of shifting the third member, against the elasticity of the spacer, toward the first member to bring the third member closer to the second member while maintaining the specimen vessel sandwiched between the first member and the second member such that the suction needle is inserted in the specimen vessel," as recited in claim 1. Accordingly, Wilks does not disclose or even suggest the "single drive source" as recited in claim 1.

Preston discloses a blood cell analyzer that has a holder 14 of an over center spring loaded mechanism. The holder 14 includes a U-shaped clamp 32 adjustably mounted to a frame 12 and an oblong-shaped tongue 34 mounted between two arms 33 of the claim 32. The height of the holder 14 can be adjusted by manually operating an adjustable handle 40 according to the size of vials. Preston also

discloses a driver 22 (includes an electric motor 21), which causes a needle 20 to extend and retract.

In the Office Action, the Examiner alleges that the holder 14 corresponds to the "elastically compressible spacer" as recited in claim 1. Applicants respectfully disagree.

In Preston, a vial 23 is held between a cup attached to a top plate 16 (corresponds to the "first member" of the claimed invention) and the holder 14. Although, the holder 14 is designed to move between two positions by the function of the over center spring mechanism, the holder 14 corresponds at least to the "second member" of the claimed invention because, in conjunction with the top plate 16, it sandwiches the vial 23 as shown in Fig. 2.

In view of this, although Preston discloses an electric motor 21, dedicated to cause the needle 20 to extend and retract, the motor 21 does not perform "a second action of shifting the second member together with the third member toward the first member until the second member makes contact with another portion of the specimen vessel such that the specimen vessel is sandwiched between the first and second members; and a third action of shifting the third member, against the elasticity of the spacer, toward the first member to bring the third member closer to the second member while maintaining the specimen vessel sandwiched between the first member and the second member such that the suction needle is

inserted in the specimen vessel," as recited in claim 1. Accordingly, Preston does not disclose or even suggest the "single drive source" as recited in claim 1.

Stettler is directed to an apparatus for inserting a pipetting insert into a stopper of a sample vessel. Stettler discloses drive-means 54 that moves a press-in means 55, which guides a plunger 41 into a pipetting insert 11, to an extent such that the pipetting insert 11 is pressed deeply as possible into the stopper 14 to assume the position shown in Fig. 3.

The drive-means 54, however, does not perform "a second action of shifting the second member together with the third member toward the first member until the second member makes contact with another portion of the specimen vessel such that the specimen vessel is sandwiched between the first and second members; and a third action of shifting the third member, against the elasticity of the spacer, toward the first member to bring the third member closer to the second member while maintaining the specimen vessel sandwiched between the first member and the second member such that the suction needle is inserted in the specimen vessel," as recited in claim 1. Accordingly, Stettler does not disclose or even suggest the "single drive source" as recited in claim 1.

In summary, Wilks merely discloses an elevating motor 221 dedicated for moving moves the upper and lower carriages, Preston

merely discloses an electric motor 22 dedicated for moving the needle 20, and Stettler merely discloses motor-means 82 dedicated for moving the pipetting insert 53. None of the prior art of record even suggests or provides motivation to move at least three elements (i.e., the "first member," the "second member," and the "third member" of the claimed invention) by using a single drive source.

Therefore, even assuming, *arguendo*, that Wilks and Stettler or Preston can be combined, Wilks in view of Stettler or Preston fails to disclose or even suggest the "single drive source" as recited in claim 1.

Claims 2, 4, 6-7, and 9-11, variously dependent on claim 1, are allowable at least for their dependency upon claim 1.

The Examiner is respectfully requested to reconsider and withdraw this rejection.

Allowable Subject Matter

Applicants appreciate the Examiner's indication that claims 3, 5, and 8 would be allowable if rewritten in independent claim form including all of the limitations of the base claim and any intervening claims.

Claims 3 and 8 have been amended into independent claim form including all of the limitations of claim 1 to place them in condition for allowance.

Claim 5, dependent on claim 3, is allowable at least for its dependency upon claim 3.

A favorable determination and allowance of claims 3, 5, and 8, as well as other pending claims, is earnestly solicited.

New Claims

New claims 12-14 have been added.

Claim 12, dependent on claim 3, is allowable at least for its dependency on claim 3.

Claim 13 is allowable because none of the prior art of record discloses or even suggests a drive source moving first, second, and third movable members.

Claim 14, dependent on claim 13, is allowable at least for its dependency on claim 13.

A favorable determination and allowance of new claims, as well as other pending claims, is earnestly solicited.

Conclusion

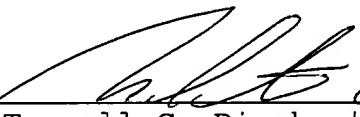
Accordingly, in view of the above amendments and remarks, reconsideration of the rejections and objections, and allowance of the pending claims are earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Maki Hatsumi (Reg. No. 40,417) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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Attachment(s): Two (2) Replacement Sheets of
Drawings - Figs. 1 and 6